

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNELL WILLIAMS,

Plaintiff,

CASE NO. 1:19-CV-1102

v.

HON. ROBERT J. JONKER

UNKNOWN EDLINGER, *et al.*,

Defendants.

/

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green's Report and Recommendation in this matter (ECF No. 31) and Plaintiff's Objections (ECF No. 32). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's Objections. The Court finds the Magistrate Judge's Report and Recommendation, which recommends granting in part and denying in part

the motion for summary judgment filed by Defendants Edlinger and Ray, factually sound and legally correct.

The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. Plaintiff's objections do not address the Report and Recommendation in any persuasive way. The objections primarily amplify arguments Plaintiff has already made and the Magistrate Judge has already addressed properly. Nothing in Plaintiff's objections changes the core analysis in this case. For the very reasons the Report and Recommendation details, Defendants Edlinger and Ray are entitled to summary judgment for lack of exhaustion as to the allegedly retaliatory searches of Plaintiff's cell and person, and are not entitled to summary judgment for lack of exhaustion as to Plaintiff's claim that they were involved in the decision to terminate his job as a wheelchair pusher and retaliated against him for filing grievances against their co-workers.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 31) is

APPROVED AND ADOPTED as the opinion of the Court.

2. The Motion for Summary Judgment filed by Defendants Edlinger and Ray (ECF No. 22) is **GRANTED** to the extent Defendants seek dismissal for lack of exhaustion of the remaining claims of allegedly retaliatory searches of Plaintiff's cell and person, and is **DENIED** in all other respects. Plaintiff's claim that Defendants were involved in the decision to terminate Plaintiff's job as a wheelchair pusher and retaliated against Plaintiff for filing grievances against their co-workers may proceed.

Dated: October 9, 2020

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE